

HOOK IS OPPOSED BY VIRGINIA COURT

State Corporation Commission Sends Protest

INTERFERED WITH

**Kansas Jurist Took Jurisdiction
in Oklahoma Rate Case, Vi-
olating Virginia Decision, and
Transgressing on Obliga-
tion of Comity Re-**

In the name of the rights of the States to protection from interference by inferior United States courts, and in the name of comity between judicial tribunals, the Virginia Corporation Commission has protested to President Taft against the appointment of Judge William C. Hook, of Kansas, to a seat on the bench of the Supreme Court of the United States, to succeed the late Justice Harlan. The protest was mailed on Wednesday and arrived yesterday at the White House. The announcement of its arrival was received by The Times-Dispatch last night, and upon application a copy was

The protest on which the signed by Judges Robert R. Gentile, William F. Rhea and J. Richard Wingfield gives reasons which differ from those given upon the President from other sources. The case which in the main is argued is that of the Oklahoma railroad rates in which Judge Hook took jurisdiction while the litigation was still pending in the Supreme Court of Oklahoma. The petition of the President is called to the feet that in the case of the United States Supreme Court of the United States laid down the rule that it is the duty of railway companies complaining of rates established by State authority to exhaust the remedies provided by State laws before invoking the equity jurisdiction of the United States courts.

Violates Comity.
Chief Justice Fuller referred to the comity which, "as applied to Federal interference with State acts, should be regarded as an obligation." This comity Judge Hook is regarded as having violated.

The President is further asked to note that there is much unrest in the public mind growing out of the frequency and facility with which intru-

Precedents are quoted to show how the Supreme Court has rebuked such practices.

Judge William C. Hook, now of Leavenworth, Kan., whose appointment to succeed Justice Harlan was expected until the recent protests, was born in Pennsylvania. He was appointed judge of the United States District Court by President McKinley

1899, and in 1903 President Roosevelt made him circuit judge. He participated in the decisions rendered in the government's suit against the Southern Pacific and Union Pacific and in the Standard Oil case.

Text of Protest.

The Virginia protest is in full as follows:

January 3, 1912.
To the President, the White House
Washington, D. C.:

Sir, The undersigned, constituting the State Corporation Commission of Virginia, beg leave most respectfully to suggest that in your judgment it would be contrary to sound public policy to promote the Honorable William C. Hook to the Supreme Court of the United States.

Our reason for this opinion differs somewhat from those which, according to the newspapers, have been advanced upon you. This reason is based upon the belief, that the United States is a

In taking jurisdiction of the Oklahoma rate case while all the issues involved therein were then pending and undetermined before the Supreme Court of Oklahoma.

In taking such jurisdiction he not only violated that comity which "should be regarded as an obligation by all courts, but he ignored the de-

decision of the Supreme Court of the United States in the case of *Prentiss vs. Atlantic Coast Line*, 231 U. S. 21 (1913). Hereinafter referred to as the *Virginia case*), and refused to recognize its authority. The Virginia case established the rule that under the Constitution and laws of Virginia (and the Constitution and laws of Oklahoma are substantially similar), it is the duty of railway companies complaining of rates established by State authority to exhaust the remedy provided by the State laws before invoking

the equity jurisdiction of the United States courts. In the Oklahoma cases the railway companies apparently recognized this rule and appealed from the commission to the Supreme Court of Oklahoma, and while their appeal was pending and undetermined in that court they filed their bills in the Circuit Court.

court of the United States for the Western District of Oklahoma and that court, Judge Hook delivering the opinion, took jurisdiction, overruling the pleas and demurrers of the State authorities. *Acheson, etc., Railway Company vs. Love*, 174 Federal Reporter, 59; *Missouri, etc., Railway Company vs. Love*, 177 Federal Reporter, 493.

Federal Interference.
We protest that this action violated that comity which, according to Mr. Chief Justice Fuller, "as applied to Federal interference with State acts should be regarded as an obligation, and which forbids any court from taking jurisdiction when another court has first acquired jurisdiction of the parties and the subject matter of the controversy and condemn such action as unseemly." It also in our opinion

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hereafter will be regular visitors.

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in 1844, Supreme Court of the United States

Introducing "Mr. Twee Deedle" and "Percy."

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